

FEDERAL RESERVE SYSTEM

Home Mortgage Disclosure Act; Notice of Hearings

Docket No. OP-1388

RIN Number 7100-AD51

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Notice of public hearings; request for comment.

SUMMARY: The Federal Reserve Board will conduct four public hearings on potential revisions to the Board's Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). HMDA requires mortgage lenders to provide detailed information about their mortgage lending activity to federal agencies and the public. Consumers, consumer advocacy organizations, mortgage lenders, and other interested parties will be invited to participate in the hearings. The Board also invites members of the public to attend the hearings and to comment on the issues that will be the focus of the hearings. Additional information about the hearings will be posted to the Board's website at <http://www.federalreserve.gov>.

DATES: The hearings are scheduled as follows.

Thursday, July 15, 2010:

Federal Reserve Bank of Atlanta
1000 Peachtree Street NE
Atlanta, GA 30309
8:00 a.m. to 1:00 p.m.

Thursday, August 5, 2010:

Federal Reserve Bank of San Francisco
101 Market Street
San Francisco, CA 94105

8:00 a.m. to 1:00 p.m.

Thursday, September 16, 2010:

Federal Reserve Bank of Chicago
230 South LaSalle St.
Chicago, IL 60604
8:00 a.m. to 1:00 p.m.

Friday, September 24, 2010:

Federal Reserve Board
20th Street and Constitution Avenue, NW
Washington, DC 20551
8:00 a.m. to 3:30 p.m.

Comments from persons unable to attend the hearings or otherwise wishing to submit written views on the issues raised in this notice must be received by [Insert date 60 days after publication in the *Federal Register*.].

ADDRESSES: You may submit comments, identified by Docket No. OP-1388, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include the docket number in the subject line of the message.
- Fax: (202) 452-3819 or (202) 452-3102.

- Mail: Address to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments will be made available on the Board's web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP-500 of the Board's Martin Building (20th and C Streets, N.W.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jennifer S. Benson, Jamie Z.

Goodson, or Maureen C. Yap, Attorneys, Paul Mondor, Senior Attorney, or John C.

Wood, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412 or (202) 452-3667. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:

I. Background

A. *HMDA and Regulation C*

The Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.*, enacted in 1975, requires depository institutions and certain for-profit, nondepository institutions to collect, report to federal agencies, and disclose to the public data about originations and purchases of home mortgage loans (home purchase and refinancing) and home improvement loans, as well as loan applications that do not result in originations (for

example, applications that are denied or withdrawn). HMDA has three purposes. First, HMDA data can be used to help determine whether institutions are serving the housing needs of their communities. Second, HMDA data can help public officials target public investment to attract private investment where it is needed. Third, HMDA data can assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

The Board's Regulation C implements HMDA. *See* 12 CFR Part 203. The information reported under Regulation C includes, among other items: application date; loan type, purpose, and amount; property location and type; race, ethnicity, sex, and annual income of the loan applicant; action taken on the loan application (approved, denied, withdrawn, etc.), and date of that action; whether the loan is covered by the Home Ownership and Equity Protection Act (HOEPA); lien status (first lien, subordinate lien, or unsecured); and certain loan price information.

Institutions report HMDA data to their supervisory agencies on an application-by-application basis using a register format. Institutions must make their loan/application registers available to the public, with certain fields redacted to preserve applicants' privacy. The Federal Financial Institutions Examination Council, on behalf of the supervisory agencies, compiles the reported data and prepares an individual disclosure statement for each institution, aggregate reports for all covered institutions in each metropolitan area, and other reports. These disclosure statements and reports are also available to the public.

B. Prior Revisions to Regulation C

HMDA and Regulation C have been amended numerous times since they were adopted in 1975. The Board last conducted a comprehensive review of Regulation C in 2002. *See* 67 FR 7222, February 15, 2002; 67 FR 30771, May 8, 2002; and 67 FR 43218, June 27, 2002. The 2002 revisions to Regulation C were intended to facilitate fair lending analysis and enhance understanding of the home mortgage market generally and the subprime market in particular. In adopting changes to Regulation C, the Board carefully considered changes that had occurred in the home mortgage market, including the growth of subprime lending.

Among other things, the 2002 revisions to Regulation C:

- Required lenders to report pricing information for higher-priced mortgage loans;
- Required lenders to identify loans subject to HOEPA;
- Required lenders to report denials of applications received through certain preapproval programs and permitted lenders to report requests for preapproval that are approved but not accepted;
- Expanded the coverage of nondepository lenders by adding a loan origination dollar-volume threshold of \$25 million;
- Required lenders to report whether a loan involves a manufactured home; and
- Required lenders to ask applicants their ethnicity, race, and sex in applications taken by telephone.

In 2008, the Board amended Regulation C to revise the rules for reporting price information on higher-priced mortgage loans. *See* 73 FR 63329, October 24, 2008.

These revisions conformed Regulation C requirements to the definition of “higher-priced

mortgage loan” adopted by the Board under Regulation Z (Truth in Lending) in July 2008. The Regulation C revisions required lenders to report the spread between a loan’s annual percentage rate and a survey-based estimate of annual percentage rates currently offered on prime mortgage loans of a comparable type if the spread is equal to or greater than 1.5 percentage points for a first-lien loan or 3.5 percentage points for a subordinate-lien loan.

II. Information About the Hearings

The hearings are open to the public. Seating will be limited, however. Visitors will be required to register in advance for security purposes.

All hearings will include panel discussions by invited speakers. Other members of the public may deliver oral statements of five minutes or less during an “open-mike” period. Written statements of any length may be submitted for the record by submitting comments in accordance with the instructions above.

Information on registration to attend the hearings, registration to deliver an oral statement, and other information about the hearings, as it becomes available, will be posted on the Board’s web site at <http://www.federalreserve.gov>.

III. Hearings Topics and Request for Comment

The hearings will serve three objectives. First, the Board will gather information to evaluate the effectiveness of the 2002 revisions to Regulation C in providing useful and accurate information about the mortgage market. Second, the hearings will provide information that will assist the Board in its pending review of Regulation C and help assess the need for additional data. Third, the hearings will help identify emerging issues in the mortgage market that may warrant additional research.

The hearings' panel discussions will focus on, and the Board solicits public comment on, the matters described below. The Board asks that commenters address the importance or utility of particular information in light of the purposes of HMDA and the burdens and possible privacy risks associated with collecting and reporting that information.

A. Data Elements

As part of its review of Regulation C, the Board is seeking to identify ways to improve the quality and usefulness of HMDA data. The Board therefore is considering whether any data elements should be added, modified, or deleted.

For example, Regulation C currently does not require lenders to submit information on several factors lenders routinely use to make credit decisions and set loan prices. These factors include information about the borrower's creditworthiness and loan-to-value and debt-to-income ratios. Regulation C also currently does not require lenders to submit other information that some HMDA data users and others have identified as potentially useful, such as an applicant's age and a loan's originator channel (*i.e.*, whether a loan is originated directly by the lender or through a third party originator such as a mortgage broker or correspondent). In addition, Regulation C currently requires lenders to report rate spread data only for higher-priced mortgage loans.

Some HMDA data users and others believe that collecting additional information would improve the usefulness of HMDA data in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. On the other hand, the Board recognizes that requiring institutions to report additional data elements would increase reporters' compliance burden and costs and could pose risks to consumers' privacy.

In addition, Regulation C currently requires lenders to report only the amount of an applicant's income relied on in processing the application. Because lenders report only income they relied on in considering an application, HMDA data users cannot distinguish low- or moderate-income applicants from higher-income applicants who rely on only a portion of their income for purposes of their loan applications. Some HMDA data users and others have suggested that HMDA data would be more useful for determining whether institutions serve the housing needs of low- and moderate-income individuals if lenders were required to collect and report each applicant's total income, rather than just that relied on.

The Board recognizes, however, that it may be difficult to measure total income in a way that generates consistent, meaningful data because lenders may not collect information on applicants' total income in all cases. For example, an applicant may qualify for a particular loan on the basis of salary alone, and therefore may not provide the lender with information on other sources of income, such as an annual bonus, investment income, or alimony. Income sources that are included on an application would be easier for lenders to report but would not necessarily provide reliable information. To the extent lenders do not rely on such income they likely would not have verified it, possibly rendering such data of only questionable utility. Requiring lenders to collect and report total income information would increase reporters' compliance burden and costs.

The Board requests comment on the following questions:

- What, if any, additional data should be collected? What are the benefits, costs, and privacy issues associated with requiring lenders to report, for example: (i)

- underwriting data such as borrower's credit score, loan-to-value ratio, combined loan-to-value ratio (*i.e.*, including both the reported loan and other debts), and borrower's debt-to-income ratio; (ii) borrower's age; (iii) loan originator channel; and (iv) rate spreads for all loans, instead of only for higher-priced loans?
- Should any existing data elements be modified? If so, how? For example, what are the benefits, costs, and privacy issues associated with requiring lenders to report total income, rather than income relied on by the lender?
 - Should any existing data elements be eliminated? Why?

B. Coverage and Scope

Coverage

Regulation C currently requires depository institutions (*i.e.*, banks, savings associations, and credit unions) and for-profit mortgage lenders to submit HMDA data if they meet criteria set forth in the rule. Whether a depository institution or other mortgage lender is required to report depends on its size, the extent of its business in a metropolitan statistical area, and the extent to which it engages in residential mortgage lending. Some HMDA data users and others believe that other types of institutions, such as mortgage brokers and non-lender loan purchasers, also should be required to collect and report HMDA data. The Board requests comment on the following questions:

- Should mortgage brokers and non-lender loan purchasers be required to report HMDA data? Should other types of institutions be required to report? If so, which types?
- Should any types of institutions be exempt from reporting?
- Should the rules governing who must collect and report HMDA data be revised in other ways? If so, how?

Scope

Regulation C currently requires lenders to report information about home purchase loans, home improvement loans, and refinancings of home purchase loans. The Board requests comment on the following questions:

- Should any other types of mortgage loans be reported?
- Should any types of mortgage loans be excluded from reporting?
- Should the rules governing which mortgage loans are subject to reporting be revised in other ways? If so, how?

C. Preapproval Programs

Regulation C currently requires lenders to collect and report data regarding requests under a preapproval program if the preapproval request is denied; preapproval requests that are approved but not accepted may be reported at the lender's option. Regulation C defines a preapproval program as a program in which a lender, after a comprehensive review of the creditworthiness of the applicant, issues a written commitment to the applicant valid for a designated period of time to extend a home purchase loan up to a specified amount. Questions have been raised regarding whether lenders use preapproval programs as defined by Regulation C and whether there is a clear benefit to requiring lenders to report on these programs. The Board also is aware that some lenders may have difficulty applying the definition of preapproval program and determining when this requirement applies. In addition, lenders that do understand the definition may evade the reporting requirements, such as by communicating preapproval decisions orally.

The Board requests comment on the following questions:

- Do lenders use preapproval programs as defined by Regulation C?
- Is there a benefit to requiring lenders to report on these programs?
- How could the definition of preapproval program be modified to be easier to apply and to make reporting more useful?

D. Compliance and Technical Issues

The Board among other things seeks to clarify and simplify Regulation C in order to facilitate compliance and resolve technical issues. The Board requests comment on the following questions:

- What are the most common compliance issues institutions face under HMDA and Regulation C?
- What parts of Regulation C would benefit from clarification or additional guidance?
- Are there technical issues regarding Regulation C that should be resolved?

E. Other Issues

As part of its review of Regulation C, the Board is seeking to identify emerging issues in the mortgage market that may warrant additional research, respond to technological and other developments, reduce undue regulatory burden on industry, and delete obsolete provisions. The Board therefore requests comment on any emerging issues likely to affect the usefulness and accuracy of HMDA data and on any other changes to Regulation C the Board should consider.

By order of the Board of Governors of the Federal Reserve System, June 15, 2010.

Jennifer J. Johnson (signed)

Jennifer J. Johnson
Secretary of the Board